



Pretrial Research: Spotlight On Telephone Surveys

Scientifically based research can take much of the guesswork out of trial preparation. There are many reliable, useful research tools that are available to help a trial team make informed, strategic decisions and develop a persuasive and compelling presentation of their case. A typical pre-trial research regimen consists of a telephone survey, a focus group, a mock trial and one or more witness evaluation activities.

A telephone survey, also known as a community attitude survey, is often the first research tool used in preparation for trial. A telephone survey is typically conducted 3-6 months before trial, and serves two main purposes:

It provides information about the background characteristics and attitudes of the venire that is useful for jury selection; and

It provides the trial team the opportunity to test the themes of the case, and enables us to identify the strongest (and weakest) themes.

A telephone survey enables us to identify the people most likely to hold views and endorse themes that are most favorable to our client, and helps us generate a preferred jury profile that is consistent, clear and understandable.

A telephone survey also provides the trial team the opportunity to test the themes of the case early in the trial preparation process. Our telephone surveys are noteworthy for their bi-partisan presentation of case themes and facts: we present both sides of the case on a theme-by-theme basis in modular form. After each module is presented, we ask the participants to react to what they have just heard and to vote on the verdict questions. At the end of the telephone survey, after the participants have heard the entire case presentation, we ask them again to vote on the verdict questions. Their responses provide us with a general understanding of how a jury is likely to process the facts and issues of a case, and enable us to identify the strongest and weakest themes of the case.

A telephone survey includes questions in the following areas:

Jury qualification information (e.g., citizenry, affiliation/closeness with any parties connected to the case);

Familiarity with and opinions about the parties in the case or people like them;

Other pre-existing, case-related attitudes;

Reactions to key facts, issues, and case themes;

Verdict votes.

Statistical analyses of the telephone survey data allow us to examine whether there are any meaningful relationships between the participants' background information (e.g., demographic information, pre-existing attitudes) and their opinions about the case. Again, our ultimate goal is to identify the strongest case themes and the characteristics of those people most likely to endorse those themes.

The telephone survey participants are a representative sample of the venire. That is, we interview randomly selected members of the jury-eligible population in the local venue, in about the same proportions as they appear in the population (e.g. 40% college-educated). Typically, between 200 and 400 people participate in each telephone survey. The large number of survey respondents ensures that our findings are reliable and generalizable; that is, we can reasonably expect that our telephone survey findings will generalize to the actual trial and jury.

A telephone survey is the first step in a series of pre-trial research tools designed to help a trial team better prepare for trial. We will explore the second step - a focus group - in our next newsletter.